

FILED

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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANTHONY ARCEO,

Petitioner,

v.

ROBERT AYERS, Warden, et al.,

Respondents.

Civil No. 07cv2131-W (BLM)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

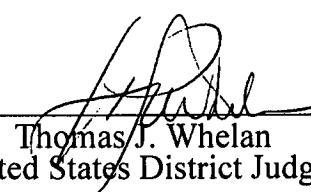
On September 14, 2007, Petitioner, a state prisoner housed at the R. J. Donovan Correctional Facility in San Diego, California, proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 in the District Court for the Eastern District of California. On November 2, 2007, the Petition was transferred to this Court after the Eastern District found that Petitioner was challenging the loss of custody credits, and that the preferable forum for such a challenge is the district of confinement. (See Doc. No. 1.)

Petitioner has failed to pay the \$5.00 filing fee and has failed to move to proceed in forma pauperis. Because this Court cannot proceed until Petitioner has either paid the \$5.00 filing fee or qualified to proceed in forma pauperis, the Court **DISMISSES** the case without prejudice. See Rule 3(a), 28 U.S.C. foll. § 2254. If Petitioner wishes to proceed with this case, he must submit, **no later than December 31, 2007**, a copy of this Order with the \$5.00 fee or with

1 adequate proof of his inability to pay the fee. The Clerk of Court is directed to send Petitioner
2 the correct Southern District of California in forma pauperis form along with a copy of this
3 Order.

4 **IT IS SO ORDERED.**

5 DATED: 11/19/07


Thomas J. Whelan
United States District Judge

7 CC: ALL PARTIES